

## Abraham Lincoln papers

Abraham Lincoln, Proclamation of Amnesty and Reconstruction [Draft]<sup>1</sup>, December 8, 1863

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1 During his illness with varioloid (a mild form of smallpox), Lincoln was drafting both his annual message to Congress (See Abraham Lincoln to Congress, December 8, 1863 and *Collected Works*, VII, 36-53), and this document, which was announced by the president in that message. Though this proclamation was unanticipated, the annual message was anxiously awaited, for it was presumed that in it, Lincoln would address the issue of reconstruction. The president had received a variety of advice as he was in the process of composing the two documents. For a sampling, see Zachariah Chandler to Lincoln, November 15, 1863, Andrew Johnson to Montgomery Blair, November 24, 1863, Salmon P. Chase to Lincoln, November 25, 1863, and Isaac N. Arnold to Lincoln, December 4, 1863.

The Proclamation of Amnesty and Reconstruction that follows embodies Lincoln's "ten per cent" plan of reconstructing the seceded states. The plan was based on the affirmations of future loyalty to the Union of at least one tenth of the 1860 voters in those states, which loyal voters would then be a core of electors involved in the re-establishment of new republican governments there. That Lincoln was willing to rely on a minority of previously-qualified voters for this task shows how far he had come from his earlier conviction of the underlying loyalty to the Union of the Southern masses. When announced, the plan given here had at least the temporary approval of a broad spectrum of Unionists, from war Democrats to radical Republicans. In the enthusiastic words of his secretary, John Hay: "Men acted as if the Millenium had come. Chandler was delighted, Sumner was beaming, while at the other political pole Dixon and Reverdy Johnson said it was highly satisfactory." See Michael Burlingame and John Turner Ettlinger, eds., *Inside Lincoln's White House: The Complete Civil War Diary of John Hay* (Carbondale: Southern Illinois University Press, 1997), 121-122.

The manuscript carries the names of typesetters assigned various parts, indicating that this copy, which was likely the final handwritten draft, was set up in print.

Dec. 8, 1863

Proclamation.<sup>2</sup>

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2 Both the date and the heading "Proclamation" appear to be in another hand, not Lincoln's.

Whereas in and by the Constitution of the United States, it is provided that the President “shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment, and

Whereas a rebellion now exists whereby the loyal State governments of several States have for a long time been subverted, and many persons have committed, and are now guilty of treason against the United States, and

Whereas, with reference to said rebellion and treason, laws have been enacted by Congress, declaring forfeitures, and confiscations of property, and liberation of slaves, all upon terms and conditions therein stated, and also declaring that the President was thereby authorized at any time thereafter, by proclamation, to extend to persons who may have participated in the existing rebellion, in any State or part thereof, pardon and amnesty, with such exceptions, and at such time, and on such conditions, as he may deem expedient for the public welfare, and

Whereas the Congressional declaration for limited and conditional pardon, accords with well established judicial exposition of the pardoning power, under the British, and American Constitutions, and

Whereas, with reference to said rebellion, the President of the United States has issued several proclamations, with provisions in regard to the liberation of slaves, and

Whereas it is now desired by some persons heretofore engaged in said rebellion, to resume their allegiance to the United States, and to re-inaugurate loyal State governments within and for their respective States, therefore

I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known, to all persons who have, directly or by implication, participated in the existing rebellion, except

[Space in Manuscript:]<sup>3</sup>

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3 In the official copy, the words “as hereinafter excepted,” follow at this point.

that a full pardon is hereby granted to them and each of them, with restoration of all rights of property, except as to slaves, and upon the condition that every such person shall take and subscribe an oath, and thenceforward keep and maintain said oath inviolate; and which oath shall be registered for permanent preservation and shall be of the tenor and effect following, to wit:

"I do solemnly swear in presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States, and the Union of the States thereunder; and that I will, in like manner, abide by, and faithfully support all Acts of Congress passed during the existing rebellion, with reference to slaves, so long, and so far, as not repealed, modified, or held void by Congress, or by decision of the Supreme Court; and that I will, in like manner, abide by and faithfully support, all proclamations of the President made during the existing rebellion, having reference to slaves, so long, and so far as not modified, or declared void by decision of the Supreme Court, so help me God."<sup>\*4</sup>

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4 The asterisk indicates the insertion point for a paragraph written out as an addition on a separate slip. The list of exceptions is based on War Department, Memoranda for Proclamation of Amnesty and Reconstruction, December, 1863 (*q. v.*), a document which was provided Lincoln to aid in preparing this proclamation.

\*The persons excepted from the benefits of the foregoing provisions are all who are, or shall have been civil or diplomatic officers or agents of the so-called Confederate government; all who have left judicial stations under the United States to aid the rebellion; all who are, or shall have been military or naval officers of said so-called confederate government, above the rank of Colonel in the Army, or of lieutenant in the Navy; all who left seats in the United States Congress to aid the rebellion; all who resigned commissions in the army or navy of the United States, and afterwards aided the rebellion; and all who have engaged in any way, in treating colored persons, or white persons in charge of such, otherwise than lawfully as prisoners of war, and which persons may have been found in the United States service as soldiers, seamen, or in any other capacity.

And I do further proclaim, declare, and make known that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South-Carolina, and North Carolina, a number of persons, not less than one tenth in number of the votes cast at in such state, at the Presidential election of the year of our Lord, one thousand eight hundred and sixty, each having taken the oath aforesaid, and not having since violated it, and being a qualified voter by the election law of the state, existing immediately before the so-called act of secession, and excluding all others, shall re-establish a State government, which shall be republican, and in no wise contravening said said oath, such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the Constitutional provision which declares that "The United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or the executive (when the legislature can not be convened against domestic violence."

And I do further proclaim, declare, and make known that any provision which may be adopted by such State government in relation to the freed people of such State, which shall recognize and declare their permanent freedom, provide for their education, and which may yet be consistent, as a temporary arrangement, with their present condition as a laboring, landless, and homeless class, shall not be objected to by the national executive.\*<sup>5</sup>

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5 The asterisk indicates the insertion point for the addition to the text that follows. For preliminary drafts of this passage, see the memorandum on the reverse side of Lincoln's draft of a letter to George Opdyke, December 2, 1863.

\*And it is suggested as not improper that in constructing a loyal State government in any State, the name of the State, the boundary, the subdivisions, the Constitution, and the general code of laws, as before the rebellion, be maintained, subject only to the modifications made necessary by the conditions hereinbefore stated, and such others, if any, not contravening said conditions, and which may be deemed expedient by those framing the new State government.

To avoid misunderstanding it may be proper to say that this paper proclamation, so far as it relates to State governments, has no reference to States wherein loyal State governments have all the while been maintained. And for the same reason it may be proper to further say that whether members sent to Congress from any State shall be admitted to seats constitutionally rests exclusively with the respective Houses, and not to any extent with the executive.

And still further that this proclamation is intended to present the people of the States wherein the national authority has been suspended, and loyal State governments have been subverted, a mode in and by which the national authority and loyal States governments may be re-established within said States, or in any of them; and, while the mode presented is the best the executive can present suggest, with his present impressions, it must not be understood that no other possible mode would be acceptable.

Given under my hand at the City of Washington, the 8th of December, A. D. one thousand eight hundred and sixty three, and of the independence of the United States of America the eighty eighth.

Abraham Lincoln